

Congressman Baird Voices LNG Concerns to FERC (July 6, 2006)

Vancouver, WA - Congressman Brian Baird expressed serious concerns with three key aspects of the liquefied natural gas (LNG) siting process: lack of Washington State permitting authority on the proposed Bradwood facility, insufficient emergency planning preparation, and lack of a comprehensive, regional outlook on the construction of Northwest LNG terminals. Congressman Baird articulated his concerns in a letter sent last Friday to the Federal Energy Regulatory Commission (FERC), the agency charged under federal law with reviewing applications for proposed LNG sites.

"I would not be serving the needs of my constituents if I did not assert my disappointment over aspects of the LNG siting process," Congressman Baird wrote in the letter (full text attached and included below).

In the letter, Congressman Baird requested that FERC establish a bi-state authority to respond to proposed projects that are located on or along waterways closely dividing two or more states. Washington State currently has very little authority over the siting decision of the Bradwood LNG facility, despite the fact that more Washington residents would live closer to the terminal than would Oregon residents.

Congressman Baird also asked FERC to require that applicants, or terminal operators, submit emergency management plans sooner and with the input of the state and local officials directly affected by the safety risks associated with an operating LNG terminal. Currently, federal regulations allow for an undue delay in developing emergency response plans for new LNG facilities. And, FERC does not require applicants to reach a formal agreement with states or local agencies on an emergency response plan before an LNG application can move forward, despite the fact local entities and the companies proposing LNG terminals are required to share the costs associated with emergency mitigation.

Congressman Baird also asked FERC to be proactive in encouraging a national and regional look at LNG terminal construction. He believes that the costs to state and local jurisdictions for participating in a federal LNG application review, and the potential environmental and safety impacts of a terminal and pipeline are too high to approach the LNG siting process without a comprehensive plan.

June 30, 2006

Mr. Joseph T. Kelliher, Chair

DOCKET #CP06-365

Federal Energy Regulatory Commission

888 1st Street, NE

Washington, D.C. 20426

Dear Chairman Kelliher,

I am writing to express concerns over the federal siting process for the Bradwood Landing liquefied natural gas (LNG) terminal application currently under review by the Federal Energy Regulatory Commission (FERC) for the lower Columbia River in Oregon. The U.S. Army Corps of Engineers has joined with FERC as a cooperating agency on the project, while the U.S. Coast Guard is overseeing the Waterway Suitability Assessment (WSA) validation process to determine whether the Columbia River is suitable for LNG ship traffic. The Bradwood Landing terminal application is now in the draft EIS (DEIS) stage of the process. FERC also is reviewing an application for a related pipeline.

Bi-State Authority

The language passed in the Energy Policy Act of 2005 (EPACT) gave FERC sole jurisdiction over the siting of LNG on-shore terminals in an effort to increase the supply of natural gas to the U.S. and reduce the impact of increasing costs on consumers. I, too, would like to reduce the cost of natural gas in this country. However, in reserving the right for the host state (the state in which the terminal is built) to retain authority over federally delegated Clean Water Act, Coastal Zone Management Act, and Clean Air Act permits, the EPACT failed to take into account the fact that some applications, such as Bradwood, affect the water, air and coasts of two states. The EPACT failed to provide a voice for non-host states whose citizens may be equally or even more affected by a terminal's safety issues than the host state.

Common sense indicates that each state should have the right, if they so choose, to issue or deny an individual permit in accordance with the Clean Water Act, Clean Air Act, and Coastal Zone Management Act. Under the EPACT, this authority only exists in the state where the terminal will be built failing to give credence to states that closely share an affected waterway with a host state.

Any state directly affected by an LNG terminal should have a formal opportunity to assess within their state regulations the potential impacts to their citizens and environment. I respectfully request that you work to establish a bi-state authority in response to those projects located on or along waterways closely dividing two or more states. Ideally, a change in administrative policy would allow the state in which the terminal is not constructed to decide whether it wants to join the efforts of the host state concerning the Clean Water Act, Clean Air Act, and Coastal Zone Management Act permitting actions.

As you are likely aware, the proposed Bradwood site at Columbia River mile 38 sits less than a half-mile from Puget Island in Washington State. In fact, more Washington residents would live closer to the terminal than would Oregon residents. As a result, Washington residents and wildlife would share many of the water, air and coastal environmental impacts from the proposed project.

Although I appreciate that Oregon has reached out to Washington in an effort to incorporate concerns and perspectives in its reviews, I also request that FERC provide Washington State joint permitting authority over the Bradwood project. This joint authority would allow Washington State to work with Oregon State in issuing Clean Water Act, Clean Air Act, and Coastal Zone Management permits.

Emergency Response Plan

Under the EPACT, an LNG terminal operator is responsible for developing an emergency response plan for the terminal and potentially affected areas. EPACT states that the plan is to be developed in conjunction with the U.S. Coast Guard and state/local agencies. However, FERC retains sole approval of the plan, which is not required until just prior to construction -- after the issuance of a FERC license. The EPACT leaves emergency planning - one of the most important planning pieces of LNG siting - until one of the very last stages of the process.

I am very concerned about this. The safety of Southwest Washington residents is a critical concern, yet FERC does not require an applicant to reach an agreement with states or local agencies on an emergency response plan before an LNG application can move forward. Additionally, I believe the emergency response plan should be required no later than at the time of the submission of the terminal operator's application and ideally in conjunction with the development and validation of the Waterway Suitability Assessment (WSA), which an applicant submits to the Coast Guard. Existing federal policy concerning the timing of the emergency response plan seems to provide a disincentive for the applicant to work with the state and local agencies to determine emergency capabilities and mitigation prior to construction.

Additionally, the EPACT requires that the emergency response plan include a cost-sharing plan with the state and local agencies and entities affected by a potential emergency. Under the EPACT, communities pay in part to provide adequate capacity to deal with a potential emergency initiated by the operation of the LNG operations. This proposes to be very costly. I do not believe that affected communities should shoulder the cost of a proposal that could put them in danger. I believe that the decision to cost-share should be left to local or state entities, and FERC should in no way mandate their participation in the mitigation costs. I also believe that if any local or state entity agrees to cost-share, the cost-share decision and cost agreement should be part of the emergency response plan submitted at the earliest application review stage possible.

For this reason, I ask that the emergency management plan submission include a signed agreement, including costs associated with mitigation, between the terminal operator and affected state and local officials from both Oregon and Washington. This emergency management plan should be submitted to FERC as soon as possible, but only after a signed agreement is reached with state and local officials who are directly affected by the safety risks associated with an operating LNG terminal.

Comprehensive Regional Plan for LNG Terminals

Federal agencies and Congress continue to research the market implications of increasing the number of LNG terminals and natural gas shipments to the U.S. We must use that information to establish, at the very least, regional plans for the siting of LNG terminals. Such plans do not currently exist throughout the country let alone the Pacific Northwest, yet we are aware of multiple plans to build terminals along the Columbia River as well along the Oregon shore. A regional plan is important to determine, for example, how an increasing number of LNG tankers along the Columbia River may affect waterway traffic, noise, and the safety of coastal residents.

We must also stay apprised of the natural gas market to determine how our national and regional needs can be met and whether additional capacity is required. FERC should not be in the business of simply permitting an overabundance of terminals and letting the market decide which will be built. The costs to state and local jurisdictions for participating in a federal LNG application review as well as the potential environmental and safety impacts of a built terminal and pipeline are too high to approach LNG siting without a national and regional plan. FERC must be proactive in encouraging a comprehensive, regional look at LNG siting.

I would not be serving the needs of my constituents if I did not assert my disappointment over aspects of the LNG siting process as expressed above. Thank you for your attention to these concerns. I look forward to working with you to address the issues raised.

Sincerely,

Brian Baird

Member of Congress

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